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8 HAAS AUTOMATION, INC.

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 HAAS AUTOMATION, INC.,

12 Plaintiff,

13 vs.

14 BRIAN DENNY, an individual,
CNCPROS.NET, Inc., an Idaho
15 Corporation, AUTOMATED
SOLUTIONS, INC., an Idaho
16 Corporation doing business as ASI
MACHINE & SUPPLY, CNCLISTINGS,
17 LLC, an Idaho Corporation, FHD
INTERNATIONAL, LLC, an Idaho
18 limited liability company and Does 1-10
inclusive,

19 Defendants.
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Case No. _____

Complaint for:

1. TRADEMARK COUNTERFEITING
2. TRADEMARK INFRINGEMENT
3. FALSE DESIGNATION OF ORIGIN
4. TRADEMARK DILUTION
5. FALSE ADVERTISING
6. CALIFORNIA STATE UNFAIR COMPETITION
7. CALIFORNIA STATE TRADEMARK DILUTION
8. COMMON LAW UNFAIR COMPETITION
9. CALIFORNIA STATE FALSE ADVERTISING

DEMAND FOR JURY TRIAL

1 Plaintiff HAAS AUTOMATION, INC. ("Haas") alleges as follows:

2 JURISDICTION AND VENUE

3 1. This action arises under the trademark laws of the United States. This
4 Court has original jurisdiction over the subject matter of this action pursuant to
5 28 U.S.C. §§ 1331 and 1338(a) and 15 U.S.C. § 1121(a).

6 2. This Court has supplemental jurisdiction over any claims herein
7 arising under the laws of the State of California pursuant to 28 U.S.C. §§ 1338(b)
8 and 1367 because the claims are so related to Haas' federal claims that they form
9 part of the same case or controversy under Article III of the United States
10 Constitution.

11 3. Venue is properly asserted against Defendants BRIAN DENNY, an
12 individual, CNCPROS.NET, Inc., an Idaho Corporation, AUTOMATED
13 SOLUTIONS, INC., an Idaho Corporation doing business as ASI MACHINE &
14 SUPPLY, CNCLISTINGS, LLC, an Idaho Corporation, FHD INTERNATIONAL,
15 LLC, an Idaho limited liability company and Does 1-10 inclusive (collectively
16 "Defendants"), in this District under 28 U.S.C. § 1391(b) in that a substantial part
17 of the events or omissions giving rise to the claims herein arose in this District.
18 Additionally, Defendants regularly conduct business via the Internet in California,
19 and as such, maintain the requisite minimum contacts to be subject to personal
20 jurisdiction in California under 28 U.S.C. § 1391(c).

21 4. Defendants have conducted substantial business in California for a
22 number of years, including but not limited to, purchasing parts from a California
23 business or businesses and purchasing advertising for a magazine with its principal
24 place of business in California. Defendants have also actively litigated two prior
25 lawsuits in the United States District Court for the Central District of California.

26 PARTIES

27 5. Haas is a corporation duly organized and existing under the laws of the
28 State of California and has a principal place of business at 2800 Sturgis Road,

1 Oxnard, California 93030. Haas is now, and for many years has been, engaged in
2 the business of providing goods and services in the field of computer numerically
3 controlled (“CNC”) machines throughout the United States and the world.

4 6. Haas is informed and believes, and based thereon alleges, that
5 Defendant BRIAN DENNY (“Denny”) is an individual residing in Idaho,
6 conducting business at 1582 E. Bramble Lane, Meridian, Idaho, 83642 and in
7 California.

8 7. Haas is informed and believes, and based thereon alleges, that
9 Defendant CNCPROS.NET, Inc. (“CNCPros”) is an Idaho corporation, conducting
10 business at 1582 E. Bramble Lane, Meridian, Idaho, 83642 and in California.

11 8. Haas is informed and believes, and based thereon alleges, that
12 Defendant AUTOMATED SOLUTIONS, INC. (“Automated Solutions”) is an
13 Idaho corporation, conducting business at 1582 E. Bramble Lane, Meridian, Idaho,
14 83642 and in California.

15 9. Haas is informed and believes, and based thereon alleges, that
16 Defendant ASI MACHINE AND SUPPLY (“ASI”) is an assumed name used by
17 Defendant Automated Solutions, which conducts business at 1582 E. Bramble
18 Lane, Meridian, Idaho, 83642 and in California.

19 10. Haas is informed and believes, and based thereon alleges, that
20 Defendant CNCLISTINGS, LLC (“CNCListings”) is an Idaho corporation,
21 conducting business at 1582 E. Bramble Lane, Meridian, Idaho, 83642 and in
22 California.

23 11. Haas is informed and believes, and based thereon alleges, that
24 Defendant FHD INTERNATIONAL, LLC (“FHD”) is an Idaho limited liability
25 company, conducting business at 1582 E. Bramble Lane, Meridian, Idaho, 83642
26 and in California. Denny is the managing member of FHD.

27 12. Haas is informed and believes, and based thereon alleges, that Denny
28 is the President of Automated Solutions and CNCPros.

1 13. Haas is informed and believes, and based thereon alleges, that
2 Automated Solutions is a member or manager of CNCListings and that Brian
3 Denny signed the Certificate of Organization on behalf of Automated Solutions in
4 the CNCListings Idaho filing.

5 14. Haas is informed and believes, and thereon alleges, that at all times
6 relevant to the Complaint:

- 7 a. Defendant Denny was the sole shareholder or member of CNCPros,
8 Automated Solutions, CNCListings and FHD, and used ASI as a
9 fictitious business name under which one or more of these entities
10 operated;
- 11 b. Denny controlled and dominated CNCPros, Automated Solutions,
12 CNCListings and FHD, including the assets of CNCPros, Automated
13 Solutions, CNCListings and FHD;
- 14 c. There existed a unity of ownership interest between Denny and
15 CNCPros, Automated Solutions, CNCListings and FHD such that any
16 individuality and separateness of the corporations and their
17 shareholder has ceased. Adherence to the fiction of the separate
18 existence of CNCPros, Automated Solutions, CNCListings and FHD
19 would permit an abuse of the corporate privilege and would sanction
20 fraud and promote injustice;
- 21 d. Denny completely controlled, dominated, managed and operated
22 CNCPros, Automated Solutions, CNCListings and FHD in such a
23 manner as to commingle personal and corporate assets and obligations.
- 24 e. Denny has carried on the business of CNCPros, Automated Solutions,
25 CNCListings and FHD without holding required directors' and/or
26 shareholders' meetings, without preparing or maintaining the records
27 of minutes of any corporate proceedings and without following all
28 corporate formalities;

- 1 f. Denny's mismanagement of CNCPros, Automated Solutions,
2 CNCListings and FHD has rendered CNCPros, Automated Solutions,
3 CNCListings and FHD insolvent and the adherence to the corporate
4 fiction of CNCPros, Automated Solutions, CNCListings and FHD
5 would result in a fraud on their creditors, including Haas, and
6 constitutes an abuse of the corporate privilege and the abuse of the
7 availability of limited liability for the corporations' shareholders;
- 8 g. Denny has used CNCPros, Automated Solutions, CNCListings and
9 FHD as mere conduits and instrumentalities to conduct and fund
10 purely personal transactions without repayment to CNCPros,
11 Automated Solutions, CNCListings and FHD; and,
- 12 h. Adherence to the fiction of the separate existence of CNCPros,
13 Automated Solutions, CNCListings and FHD as entities separate and
14 distinct from Denny under the above alleged facts and circumstances,
15 and those to be determined through discovery in this action, would
16 permit an abuse of the corporate privilege. The purported separate
17 existence of CNCPros, Automated Solutions, CNCListings and FHD
18 should be disregarded and any judgment entered against CNCPros,
19 Automated Solutions, CNCListings and FHD should also be entered
20 against Denny to prevent a fraud on creditors and a miscarriage of
21 justice. In addition, the acts of CNCPros, Automated Solutions,
22 CNCListings and FHD must be deemed the acts of Denny.

23 15. Haas is informed and believes, and thereon alleges that, at all times
24 herein alleged, CNCPros, Automated Solutions, CNCListings and FHD were
25 conceived, and/or intended for (even at times subsequent to their formation), and
26 used by Denny as a device to avoid individual liability and for the purpose of
27 substituting financially insolvent corporations in the place of Denny or to try to
28 conceal Denny's acts and omissions by the use of these entities.

16. Haas is informed and believes, and thereon alleges that, at all material times, Denny was the agent, servant or employee of CNCPros, Automated Solutions, CNCListings and FHD, and in doing the things hereinafter alleged, acted within the course and scope of their authority and with the ratification and consent of CNCPros, Automated Solutions, CNCListings and FHD. Accordingly, CNCPros, Automated Solutions, CNCListings and FHD are liable to Haas on all causes of action for which Denny is found liable to Haas. Denny is liable to Haas on all causes of action for which the entities are found liable to Haas.

17. Haas is informed and believes and based thereon alleges that Does 1 through 10 are the agents, successors, employees, or otherwise responsible parties for Denny, ASI, Automated Solutions, CNCPros, CNCListings and FHD.

18. Haas is one of the largest builders and manufacturers of CNC machine tools in the Western World. Over the past thirty years, Haas has built a family of trademarks and service marks under which it labels, advertises, offers for sale and sells its CNC goods and services throughout the United States and the world (the "Haas Marks").

DEFENDANTS' WRONGFUL CONDUCT

19. In November 2009, Haas filed a complaint in the United States District Court for the Central District of California, Case No. 09-CV-08336-CBM, against Defendants (the same Defendants sued herein, except CNCListings and FHD) for violations of the Anti-Cybersquatting Consumer Protection Act ("ACPA") and other claims, due to their wrongful use of seven domain names (the "2009 Litigation"). After filing the 2009 Litigation, Haas discovered that Defendants had wrongfully registered eight more domain names. Haas amended its complaint to include those additional domains, for a total of fifteen domain names wrongfully used by those defendants. In April 2011, the 2009 Litigation was tried in a U.S. District Court action in the Central District of California which was heard by Judge Consuelo B. Marshall and the jury found Denny guilty of violating the ACPA.

1 Judgment was entered for ACPA damages and for attorney's fees, and the judgment
2 was affirmed on appeal by the Ninth Circuit.

3 20. During and after the 2009 Litigation, and before Haas' second lawsuit
4 against Defendants, Haas discovered that Defendants had registered several more
5 domain names containing the word Haas, including *haasplus.com*, which was
6 registered on April 8, 2011, just a few days before the trial in the 2009 Litigation
7 and *all-haas.com*, which was registered on September 19, 2011, a few months after
8 a jury adjudicated Denny a cybersquatter.

9 21. In May 2012, Haas filed its second lawsuit against Defendants in the
10 United States District Court for the Central District of California, Case No. 12-CV-
11 04779-CBM, for violations of the ACPA and other claims, due to their wrongful
12 registration, use, etc. of the *twenty-three* infringing domain names, including
13 *haasplus.com* and *all-haas.com* (the "2012 Litigation").

14 22. Haas is informed and believes, and based thereon alleges, that even
15 after Haas filed the 2012 Litigation, Defendants continued to use the *haasplus.com*
16 and *all-haas.com* domain names.

17 23. Haas is informed and believes, and based thereon alleges, that
18 Defendants used the website *haasplus.com* to sell both authentic and fake
19 replacement parts for Haas CNC machines.

20 24. Haas is informed and believes, and based thereon alleges, that the fake
21 replacement parts for Haas CNC machines that were sold on *haasplus.com* were
22 either manufactured by FHD or other entities with no affiliation to Haas (the "Fake
23 Replacement Part" or "Fake Replacement Parts").

24 25. Haas is informed and believes, and based thereon alleges, that
25 nothing on the *haasplus.com* website indicated whether a particular replacement
26 part available for sale on the *haasplus.com* website was an authentic part
27 manufactured by an authorized affiliate of Haas or a Fake Replacement Part
28 manufactured by FHD or another entity with no affiliation to Haas.

26. Haas is informed and believes, and based thereon alleges, that many of the Fake Replacement Parts that were sold on the *haasplus.com* website were identified by the same part numbers which are used to identify authentic Haas replacement parts.

27. Haas is informed and believes, and based thereon alleges, that the Fake Replacement Parts were shipped in packaging and with an invoice, each of which displayed the word "Haas." True and correct copies of photographs of shipments of the Fake Replacement Parts are attached hereto marked as collective **Exhibit 1**.

28. On December 4, 2013, the Court, by Judge Consuelo B. Marshall, issued a formal order (Docket No. 150) on Haas' and Defendants' summary judgment motions for the 2012 Litigation (the "2013 Partial Judgment"), which adjudicated, in part, that Defendants Denny, CNCListings and FHD violated the ACPA as to all of the twenty-three domains that were the subject of the lawsuit, including *haasplus.com* and *all-haas.com*.

DEFENDANT'S CONDUCT AFTER THE COURT'S FORMAL ENTRY OF THE 2013 PARTIAL JUDGMENT

29. After the Court's 2013 Partial Judgment, formal order, Defendants returned the domains *haasplus.com* and *all-haas.com* to Haas, but continued to use the *haasplus* and *all-haas* designations on the Internet.

30. Haas is informed and believes, and based thereon alleges, that Defendants maintained a LinkedIn profile for *haasplus* at <http://www.linkedin.com/company/haasplus>. This LinkedIn profile contained a link to the domain <http://www.SequoiaCNC.com>, which led to a website that advertised replacement parts for Haas CNC machines. True and correct copies of which are attached hereto marked as collective **Exhibit 2**.

31. Haas is informed and believes, and based thereon alleges, that Defendants also maintained a LinkedIn profile for *all-haas* at <http://www.linkedin.com/company/all-haas>. This LinkedIn profile contained a link

1 to the domain *all-hcnc.com*, which was registered by Defendant Denny on
 2 December 9, 2013 – only five days after the Court’s 2013 Partial Judgment. A true
 3 and correct copy of which is attached hereto marked as **Exhibit 3**.

4 32. Haas is informed and believes, and based thereon alleges, that
 5 Defendants also maintained a Pinterest profile for *all-haas* at
 6 <http://www.pinterest.com/allhaas2013/following/>. This Pinterest profile contained
 7 a logo for AllFadal.com, a company that is owned by Defendants and sells CNC
 8 parts. A true and correct copy of which is attached hereto marked as **Exhibit 4**.


9 33. Haas is informed and believes, and based thereon alleges, that
 10 Defendants similarly maintained a Twitter profile for *all-haas* at
 11 <https://twitter.com/AllHaasPage> and a Modern Machine Shop profile for *all-haas* at
 12 <http://www.mmsonline.com/suppliers/all-haas>. True and correct copies of which
 13 are attached hereto marked as **Exhibits 5 and 6**, respectively.

14 34. Haas is informed and believes, and based thereon alleges, that
 15 Defendants also continued to sell Fake Replacement Parts on amazon.com and
 16 ebay.com using the *haasplus* designation. True and correct copies of print-outs
 17 from amazon.com are attached hereto marked as collective **Exhibit 7** and true and
 18 correct copies of print-outs from ebay.com are attached hereto marked as collective
 19 **Exhibit 8**.

20 35. Furthermore, Haas is informed and believes, and based thereon
 21 alleges, that Defendant Denny’s Google+ profile contained links to *haasplus.com*
 22 and *all-haas.com*. A true and correct copy of which is attached hereto marked as
 23 **Exhibit 9**.

24 **THE HAAS MARKS**

25 36. Through extensive and continuous use, Haas owns numerous
 26 trademark registrations (and common-law variations) containing the term HAAS,
 27 used on and in connection with CNC machines and services, including the
 28 following:

MARK	DATE FILED	DATE REGISTERED	REGISTRATION NUMBER	DATE OF FIRST USE
	11/03/2000	05/28/2002	2,573,776	07/07/1983
HAAS AUTOMATION	11/03/2000	05/28/2002	2,573,775	07/07/1983
HAAS FACTORY OUTLET	07/27/2007	11/18/2008	3,533,101	03/01/1998
HAAS FACTORY OUTLET	07/27/2007	10/14/2008	3,514,894	03/01/1998

37. Haas' registrations identified in paragraph 36, above, are valid and subsisting (jointly referred to as the "Haas Marks").

38. Since as early as July 7, 1983, Haas has continuously used, advertised, offered for sale, and/or sold, in interstate commerce, Haas' goods and services under the Haas Marks throughout the United States through various channels of trade, including, but not limited to, the Internet and the Haas Website.

39. Haas' actual and intended class of consumers throughout the United States, are end users seeking CNC machines and services.

40. Haas has devoted substantial time, effort and resources in the establishment of the good will, consumer recognition, and nationwide reputation of the Haas Marks.

41. Haas has also expended significant resources to advertise its CNC goods and services under the Haas Marks, throughout the United States in multiple media, including, but not limited to, various websites and forums on the Internet as well as the official Haas website, <http://www.haascnc.com> ("Haas Website").

42. The Haas Marks are inherently distinctive and famous within the meaning of 15 U.S.C. §1125(c).

43. Haas has not abandoned any of the Haas Marks.

FIRST CLAIM FOR RELIEF

[Federal Trademark Counterfeiting – 15 U.S.C. § 1114]

44. Haas repeats, realleges, and incorporates by reference, as though fully set forth herein, the allegations contained in all prior and subsequent paragraphs.

45. For decades prior to the acts of Defendants complained of herein, Haas has used the Haas Marks in interstate and international commerce in connection with all of its products and services, including its CNC machines and its CNC machine replacement parts.

46. Defendants have used spurious designations that are identical with, or substantially indistinguishable from, the Haas Marks on goods related to or covered by registrations for the Haas Marks.

47. Defendants have used these spurious designations knowing they are counterfeit in connection with the advertisement, promotion, sale, and/or offering for sale and distribution of goods.

48. Defendants' use of the Haas Marks to advertise, promote, offer for sale, distribute and sell Defendants' CNC parts was and is without the consent of Haas.

49. Defendants' unauthorized use of the Haas Marks on and in connection with Defendants' advertisement, promotion, sale, offering for sale and distribution of CNC parts through the World Wide Web constitutes Defendants' use of the Haas Marks in interstate commerce.

50. Defendants' unauthorized use of the Haas Marks as set forth above has and is likely to continue to: (a) cause confusion, mistake and deception; (b) cause the public to believe that Defendants' are authorized, sponsored, or approved by Haas such that the Fake Replacement Parts are authentic when they are not; and (c) result in Defendants unfairly benefitting from Haas' advertising and promotion and profiting from the reputation of Haas and its Haas Marks all to the substantial and irreparable injury of the public, Haas and the Haas Marks.

1 51. Defendants' above recited facts constitute trademark counterfeiting in
2 violation of 15 U.S.C. § 1114.

3 52. Defendants' acts are intentional, willful and malicious.

4 53. Defendants continuing infringement has inflicted, and unless
5 restrained by this Court will continue to inflict, great and irreparable harm upon
6 Haas. Haas has no adequate remedy at law. Haas is entitled to preliminary and
7 permanent injunctions enjoining Defendants from engaging in further acts of
8 infringement.

9 54. Haas is informed and believes, and based thereon alleges, that as a
10 direct and proximate result of Defendants' foregoing acts, Haas has suffered and is
11 entitled to an award of monetary damages in an amount not yet determined, as
12 Defendants are unjustly enriched and Haas is unjustifiably damaged each and every
13 time Defendants sell a Fake Replacement Part or cause confusion as to their
14 affiliation with Haas by using the *haasplus* or *all-haas* designations.

15 55. Alternatively, Haas is entitled to statutory damages pursuant to
16 15 U.S.C. § 1117 (c) in the amount of \$2,000,000 per counterfeit mark, per type of
17 goods or services sold, offered for sale, or distributed. Haas is also entitled to its
18 attorneys' fees and costs of suit herein.

19 **SECOND CLAIM FOR RELIEF**

20 **[Federal Trademark Infringement – 15 U.S.C. § 1114]**

21 56. Haas repeats, realleges, and incorporates by reference, as though fully
22 set forth herein, the allegations contained in all prior and subsequent paragraphs.

23 57. Defendants had both actual and constructive knowledge of Haas'
24 ownership and rights in its federally registered marks prior to Defendants'
25 infringing use of those marks.

26 58. Haas is informed and believes and based thereon alleges that
27 Defendants have been manufacturing, advertising, distributing, marketing,
28 promoting, offering for sale, and selling in interstate commerce CNC replacement

1 parts using the Haas Marks identified above. Defendants' use of the Haas Marks in
2 association with Defendants' products is likely to cause confusion and Haas is
3 informed and believes, and based thereon alleges, that such use has caused
4 consumer confusion that Defendants' products are commissioned by, sponsored by,
5 or affiliated with Haas.

6 59. Defendants' use of the Haas Marks is without the permission of Haas.
7 Haas is informed and believes, and based thereon alleges, that Defendants willfully
8 use the Haas Marks in connection with the sale, offering for sale, distribution,
9 and/or advertising of the Defendants' products in a manner likely to cause
10 confusion, or to cause mistake, or to deceive customers that Defendants' products,
11 including their Fake Replacement Parts, are a Haas product or authorized by Haas.

12 60. The above-recited acts by Defendants constitute trademark
13 infringement of the Haas Marks to the substantial and irreparable injury of the
14 public and of Haas' business reputation and goodwill.

15 61. Haas is informed and believes, and based thereon alleges, that as a
16 result of these acts, Defendants have been, and will continue to be, unjustly
17 enriched by the profits that the Defendants have made in connection with the
18 distribution and/or sale of Defendants' Fake Replacement Parts using the Haas
19 Marks.

20 62. Defendants continuing infringement has inflicted, and unless
21 restrained by this Court will continue to inflict, great and irreparable harm upon
22 Haas. Haas has no adequate remedy at law. Haas is entitled to preliminary and
23 permanent injunctions enjoining Defendants from engaging in further acts of
24 infringement.

25 63. Haas is informed and believes, and based thereon alleges, that as a
26 direct and proximate result of Defendants' foregoing acts, Haas has suffered and is
27 entitled to an award of monetary damages in an amount not yet determined, as
28 Defendants are unjustly enriched and Haas is unjustifiably damaged each and every

1 time Defendants sell a Fake Replacement Part or cause confusion as to their
 2 affiliation with Haas by using the *haasplus* or *all-haas* designations. Haas is also
 3 entitled to its attorneys' fees and costs of suit herein.

4 64. Haas is informed and believes, and based thereon alleges, that
 5 Defendants' acts were in conscious and willful disregard of the Haas Marks and the
 6 resulting damage to Haas is such as to warrant the trebling of damages in order to
 7 provide just compensation.

8 9 **THIRD CLAIM FOR RELIEF**

10 **[False Designation of Origin – 15 U.S.C. 1125(a)]**

11 65. Haas repeats, realleges, and incorporates by reference, as though fully
 12 set forth herein, the allegations contained in all prior and subsequent paragraphs.

13 66. Haas is informed and believes, and based thereon alleges, that
 14 Defendants have used and are using the Haas Marks to sell, market, and promote
 15 Defendants' products with the intent of passing off and confusing the public into
 16 believing that Defendants' products originate with, are commissioned by, and/or are
 17 sponsored by Haas.

18 67. Defendants' above recited acts, constitute false designation of origin,
 19 false description of fact, false representation, unfair competition, and false
 20 affiliation, connection, or association in violation of Section 43(a) of the Lanham
 21 Act, 15 U.S.C. § 1125(a), as such acts are likely to have deceived and are likely to
 22 continue to deceive customers and prospective customers into believing that
 23 Defendants' products, including their Fake Replacement Parts, are from or
 24 sponsored by Haas and/or that Defendants are affiliated or associated with Haas.

25 68. If not enjoined by the Court, Defendants will continue to sell
 26 Defendants' products, including their Fake Replacement Parts, in commerce, which
 27 products will be attributed to having emanated from Haas. Furthermore, even when
 28 selling genuine Haas replacement parts, Defendants' use of the *Haasplus*

1 designation will continue to cause consumer confusion as to the identity of the
2 entity selling the parts, which is a false designation of source. Haas, however, has
3 no control over the nature and quality of Defendants' Fake Replacement Parts or
4 the service provided by Defendants when selling genuine Haas products, and any
5 fault or objection with said products or Defendants' customer service will adversely
6 affect future sales by Haas of its own real products.

7 69. Haas is informed and believes, and based thereon alleges, that as a
8 result of these acts, Defendants have been, and will continue to be, unjustly
9 enriched by the profits that the Defendants have made in connection with their
10 distribution and/or sale of Defendants' products.

11 70. Haas is informed and believes, and based thereon alleges, that
12 Defendants' continuing infringement has inflicted, and unless restrained by this
13 Court will continue to inflict, great and irreparable harm upon Haas. Haas has no
14 adequate remedy at law. Haas is entitled to preliminary and permanent injunctions
15 enjoining Defendants from engaging in further acts of infringement.

16 71. Haas is informed and believes, and based thereon alleges, that as a
17 direct and proximate result of Defendants' foregoing acts, Haas has suffered and is
18 entitled to an award of monetary damages in an amount not yet determined, as
19 Defendants are unjustly enriched and Haas is unjustifiably damaged each and every
20 time Defendants sell a Fake Replacement Part or cause confusion as to their
21 affiliation with Haas by using the *haasplus* or *all-haas* designations. Haas is also
22 entitled to its attorneys' fees and costs of suit herein.

23 72. Haas is informed and believes, and based thereon alleges, that
24 Defendants' acts were in conscious and willful disregard for Haas rights, and the
25 resulting damage to Haas is such as to warrant the trebling of damages in order to
26 provide just compensation.

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FOURTH CLAIM FOR RELIEF

[Federal Trademark Dilution – 15 U.S.C. § 1125(c)]

73. Haas repeats, realleges, and incorporates by reference, as though fully set forth herein, the allegations contained in all prior and subsequent paragraphs.

74. The Haas Marks are distinctive and famous marks.

75. Defendants began using the Haas Marks in connection with the advertising, offering for sale, and/or sale of Defendants' products, including their Fake Replacement Parts, subsequent to the Haas Marks becoming famous.

76. Defendants' advertising, distribution, marketing, promotion, offer for sale, and/or sale of Defendants' products, including their Fake Replacement Parts, and their use of the Haas Marks causes dilution by lessening the capacity of the Haas Marks to identify and distinguish Haas products. Defendants' use of the Haas Marks also causes dilution by tarnishment by harming the reputation of the Haas Marks.

77. By reason of the acts complained of herein, Defendants' have caused the dilution of the distinctive quality of the Haas Marks, lessened the capacity of the Haas Marks to identify and distinguish Haas products, and tarnished the Haas Marks in violation of 15 U.S.C. §1125(c).

78. As a result of their acts, Defendants have been, and will continue to be, unjustly enriched by the profits that the Defendants have made in connection with their distribution and/or sale of Defendants' products, including their Fake Replacement Parts.

79. Defendants' continuing infringement has inflicted, and unless restrained by this Court will continue to inflict, great and irreparable harm upon Haas. Haas has no adequate remedy at law. Haas is entitled to preliminary and permanent injunctions enjoining Defendants from engaging in further acts of infringement.

80. Haas is informed and believes, and based thereon alleges, that as a direct and proximate result of Defendants' foregoing acts, Haas has suffered and is entitled to an award of monetary damages in an amount not yet determined, as Defendants are unjustly enriched and Haas is unjustifiably damaged each and every time Defendants sell a Fake Replacement Part or cause confusion as to their affiliation with Haas by using the *haasplus* or *all-haas* designations. Haas is also entitled to its attorneys' fees and costs of suit herein.

81. Haas is informed and believes, and based thereon alleges, that Defendants' acts were in conscious and willful disregard of Haas' rights in the Haas Marks and the resulting damage to Haas is such as to warrant the trebling of damages in order to provide just compensation.

FIFTH CLAIM FOR RELIEF

[False Advertising – 15 U.S.C. § 1125(a)]

82. Haas repeats, realleges and incorporates by reference, as though fully set forth herein, the allegations contained in all prior and subsequent paragraphs.

83. Haas is informed and believes, and based thereon alleges, that Defendants have in effect informed the market that Defendants' Fake Replacement Parts are the products of Haas and that Defendants are affiliated with Haas when they are not. These misrepresentations were made in interstate commerce through commercial advertising or promotion of Defendants' products, including on the Internet, and are false and/or misleading and do not represent the nature and characteristics of Defendants' company or its Fake Replacement Parts. Haas is further informed and believes, and based thereon alleges, that Defendants made these misrepresentations knowingly and intentionally in an effort to confuse consumers, and these statements have actually deceived or have a tendency to deceive a substantial segment of their audience. Further, this deception is material in that the above-mentioned statements are likely to influence the decision by consumers to purchase Defendants' products as the Haas Marks are synonymous

1 with quality CNC machines, CNC parts and CNC services and Defendants' seek to
2 unlawfully trade off the Haas Marks as a result.

3 84. Defendants' above-described acts constitute false advertising in
4 violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

5 85. As a result of their acts, Defendants have been, and will continue to be,
6 unjustly enriched by the profits that the Defendants have made in connection with
7 their distribution and/or sale of Defendants' products. Such profits have damaged
8 and will continue to damage Haas.

9 86. Defendants' continuing infringement has inflicted, and unless
10 restrained by this Court will continue to inflict, great and irreparable harm upon
11 Haas. Haas has no adequate remedy at law. Haas is entitled to preliminary and
12 permanent injunctions enjoining Defendants from engaging in further acts of false
13 advertising.

14 87. Haas is informed and believes, and based thereon alleges, that as a
15 direct and proximate result of Defendants' foregoing acts, Haas has suffered and is
16 entitled to an award of monetary damages in an amount not yet determined, as
17 Defendants are unjustly enriched and Haas is unjustifiably damaged each and every
18 time Defendants sell a Fake Replacement Part or cause confusion as to their
19 affiliation with Haas by using the *haasplus* or *all-haas* designations. Haas is also
20 entitled to its attorneys' fees and costs of suit herein.

21 88. Haas is informed and believes, and based thereon alleges, that
22 Defendants' acts were in conscious and willful disregard for Haas' rights, and the
23 resulting damage to Haas is such as to warrant the trebling of damages in order to
24 provide just compensation.

SIXTH CLAIM FOR RELIEF

**[California Statutory Unfair Competition –
Cal. Bus. & Prof. Code § 17200, *et seq.*]**

89. Haas repeats, realleges, and incorporates by reference, as though fully set out herein, the allegations contained in all prior and subsequent paragraphs.

90. Haas has built valuable goodwill in the Haas Marks. Defendants' advertising, distribution, marketing, promotion, offer for sale, and/or sale of Defendants' Fake Replacement Parts using the Haas Marks is likely to and does permit Defendants to trade upon the goodwill of the Haas Marks and to confuse the public regarding a connection or affiliation between Haas and Defendants. This conduct results in damage to Haas' goodwill and reputation, the loss of money and property to Haas, and the unjust enrichment of Defendants.

91. By manufacturing, advertising, distributing, marketing, importing, promoting, offering for sale, and/or selling Defendants' products, including their Fake Replacement Parts, using the Haas Marks, Defendants mislead others, and will continue to mislead others, into assuming there is a connection between Haas and Defendants.

92. Defendants' use of the Haas Marks in connection with Defendants' products, including their Fake Replacement Parts, was and is without the consent of Haas. Defendants' conduct is thus unfair, unlawful and fraudulent in violation of Section 17200, *et seq.* of the California Business and Professions Code.

93. Haas is informed and believes, and based thereon alleges, that unless restrained by this Court, Defendants will continue to infringe the Haas Marks, and pecuniary compensation will not afford Haas adequate relief for the damage to its trademarks in the public perception.

94. As a result of the acts complained of herein, Defendants have been, and will continue to be, unjustly enriched by the profits that Defendants have made in connection with the distribution and/or sale of the Defendants' products and

1 Haas has been, and continues to be, monetarily damaged with each sale by
2 Defendants of a Fake Replacement Part.

3 **SEVENTH CLAIM FOR RELIEF:**

4 **[California Trademark Dilution – Cal. Bus. & Prof. Code § 14247]**

5 95. Haas repeats, realleges, and incorporates by reference, as though fully
6 set forth herein, the allegations contained in all prior and subsequent paragraphs.

7 96. The Haas Marks are distinctive and famous marks, as those terms are
8 used in California Business and Professions Code §14247.

9 97. Defendants began using the Haas Marks in connection with the
10 advertising, offering for sale, and/or sale of Defendants' products, including their
11 Fake Replacement Parts, subsequent to the Haas Marks becoming famous.

12 98. Defendants' advertising, distribution, marketing, promotion, offer for
13 sale, and/or sale of Defendants' products, including their Fake Replacement Parts,
14 using the Haas Marks causes dilution by lessening the capacity of the Haas Marks
15 to identify and distinguish Haas products. Defendants' use of the Haas Marks also
16 causes dilution by tarnishment by harming the reputation of the Haas Marks.

17 99. By reason of the acts complained of herein, Defendants' have caused
18 the dilution of the distinctive quality of the Haas Marks, lessened the capacity of the
19 Haas Marks to identify and distinguish Haas products, and tarnished the Haas
20 Marks.

21 100. As a result of their acts, Defendants have been, and will continue to be,
22 unjustly enriched by profits that Defendants have made in connection with their
23 distribution and/or sale of Defendants' products, including their Fake Replacement
24 Parts.

25 101. Defendants' continuing infringement has inflicted, and unless
26 restrained by this Court will continue to inflict, great and irreparable harm upon
27 Haas. Haas has no adequate remedy at law. Haas is entitled to preliminary and
28

1 permanent injunctions enjoining Defendants from engaging in further acts of
2 infringement.

3 102. Haas is informed and believes, and based thereon alleges, that as a
4 direct and proximate result of Defendants' foregoing acts, Haas has suffered and is
5 entitled to an award of monetary damages in an amount not yet determined, as
6 Defendants are unjustly enriched and Haas is unjustifiably damaged each and every
7 time Defendants sell a Fake Replacement Part or cause confusion as to their
8 affiliation with Haas by using the *haasplus* or *all-haas* designations. Haas is also
9 entitled to its attorneys' fees and costs of suit herein.

10 103. Haas is informed and believes, and based thereon alleges, that
11 Defendants' acts were in conscious and willful disregard of Haas' rights in the Haas
12 Marks, and the resulting damage to Haas is such as to warrant the trebling of
13 damages in order to provide just compensation.

14 **EIGHT CLAIM FOR RELIEF:**

15 **[Common Law Unfair Competition]**

16 104. Haas repeats, realleges, and incorporates by reference, as though fully
17 set forth herein, the allegations contained in all prior and subsequent paragraphs.

18 105. Defendants' actions in connection with Defendants' products are likely
19 to cause confusion, to cause misrepresentation, to cause mistake, and/or to deceive
20 the public as to the affiliation, approval, sponsorship, or connection between
21 Defendants and Haas, and constitute unfair competition at common law.

22 106. By reason of Defendants' actions in connection with Defendants'
23 products, Haas has suffered, and will continue to suffer, irreparable injury to its
24 rights, and has suffered, and will continue to suffer, substantial loss of goodwill and
25 loss in the value of its trademark, unless and until Defendants are enjoined from
26 continuing their wrongful acts.

27 107. By reason of Defendants' actions in connection with Defendants' Fake
28 Replacement Parts, Haas has been damaged in an amount not presently ascertained,

1 and such damage will continue and increase unless and until Defendants are
2 enjoined from continuing their wrongful acts.

3 108. The conduct of the Defendants, is highly reprehensible because,
4 among other things: (A) it has caused and will continue to cause substantial
5 economic loss to Haas; (B) it demonstrates an indifference as to the trademark
6 rights of Haas; (C) it has been repeated and continuous, rather than just an isolated
7 incident; and (D) it has caused and will continue to cause harm to Haas not by
8 accident, but rather by said intentional malice, trickery and deceit.

9 109. Haas is informed and believes, and thereon alleges, that the
10 aforementioned conduct of the Defendants, was intended to cause injury to Haas or
11 was despicable conduct carried on by them with a willful and conscious disregard
12 of the trademark rights of Haas such as to constitute malice, oppression, or fraud
13 under California Civil Code § 3294, thereby entitling Haas to punitive damages in
14 an amount appropriate to punish or set an example of the Defendants, and each of
15 them. The aforementioned acts were either committed by Denny individually
16 and/or in Denny's capacity as an officer or managing agent of Defendants and/or by
17 an employee or agent of Defendants and such conduct was ratified by Denny as an
18 officer or managing agent of Defendants.

19 **NINTH CLAIM FOR RELIEF:**

20 **[False Advertising Pursuant to California Business and Professions Code §**
21 **17500]**

22 110. Haas repeats, realleges, and incorporates by reference, as though fully
23 set forth herein, the allegations contained in all prior and subsequent paragraphs.

24 111. Haas is informed and believes, and based thereon alleges, that
25 Defendants have in effect informed the market that Defendants' products, including
26 their Fake Replacement Parts, are the products of Haas. Haas is further informed
27 and believes, and based thereon alleges, that Defendants made these
28 misrepresentations knowingly and intentionally in an effort to confuse consumers,

1 and these statements have actually deceived or have a tendency to deceive a
 2 substantial segment of their audience. Further, this deception is material in that the
 3 above-mentioned statements are likely to influence the decision by consumers to
 4 purchase Defendants' products. This conduct violates California Business and
 5 Professions Code § 17500.

6 112. Defendants' continuing infringement has inflicted, and unless
 7 restrained by this Court will continue to inflict, great and irreparable harm upon
 8 Haas. Haas has no adequate remedy at law. Haas is entitled to preliminary and
 9 permanent injunctions enjoining Defendants from engaging in further acts of false
 10 advertising.

11 113. Haas is informed and believes, and based thereon alleges, that as a
 12 direct and proximate result of Defendants' foregoing acts, Haas has suffered and is
 13 entitled to an award of monetary damages in an amount not yet determined, as
 14 Defendants are unjustly enriched and Haas is unjustifiably damaged each and every
 15 time Defendants sell a Fake Replacement Part or cause confusion as to their
 16 affiliation with Haas by using the *haasplus* or *all-haas* designations.

17 PRAYER FOR RELIEF

18 WHEREFORE, Haas respectfully demands judgment:

19 1. That Defendants, their affiliates, subsidiaries, officers, directors,
 20 employees, and attorneys, and all persons and/or entities acting for, with, by,
 21 through, or in concert with them or any of them be enjoined preliminarily and
 22 permanently from:

23 (a) using the Haas Marks and/or any other designation that is a
 24 colorable imitation of and/or is confusingly similar to the Haas Marks, in any
 25 medium (retail, wholesale, internet, physical or otherwise) in connection with any
 26 product or the manufacture, advertising, distribution, marketing, importation,
 27 offering for sale, and/or sale of products neither originating from nor authorized by
 28 Haas;

1 (b) representing in any manner, or by any method whatsoever, that
2 Defendants are in any way affiliated with Haas, or that the goods, services, or other
3 products provided by Defendants are sponsored, approved, authorized by, or
4 originate from Haas, or otherwise taking any action likely to cause confusion,
5 mistake, or deception as to the origin, approval, sponsorship, or certification of such
6 goods or services;

7 (c) infringing, diluting and/or tarnishing the distinctive quality of
8 the Haas Marks; and

9 (d) unfairly competing with Haas in any manner;

10 2. That Defendants be required to deliver up to Haas for destruction any
11 literature, catalogs, signs, advertising material, and the like bearing any of the Haas
12 Marks or any confusingly similar variations thereof for products neither originating
13 from nor authorized by Haas.

14 3. That Defendant be required to delivery up to Haas for destruction all
15 counterfeit goods.

16 4. That Defendants, within thirty (30) days after service of notice of entry
17 of judgment upon them, be required to file with the Court and serve upon Haas'
18 attorneys a written report, under oath, setting forth in detail the manner in which
19 Defendants have complied with paragraphs 1, 2 and 3, above.

20 5. That Defendants be required to account for and pay over to Haas their
21 profits and the cumulative damages sustained by Haas by reason of Defendants'
22 unlawful acts of trademark infringement, counterfeiting, false designation of origin,
23 dilution, and unfair competition herein alleged, that the amount of recovery be
24 increased as provided by law, up to three times, and that interest and costs be
25 awarded to Haas.

26 6. That the Court order disgorgement and/or restitution of Defendants'
27 profits to Haas.

1 7. That, for each violation of the trademark rights of Haas, Defendants be
2 ordered to pay statutory damages for such violations under each applicable claim
3 for relief, including where there is a finding of willful infringement or other
4 conduct entitling Haas to an increase in statutory damages, for the maximum award
5 of statutory damages available under each of the applicable claims for relief set
6 forth above, which is the amount of \$2,000,000 per counterfeit mark per type of
7 goods or services sold, offered for sale, or distributed.

8 8. That Haas be awarded its reasonable costs and attorneys' fees.

9 9. That Haas be awarded punitive damages.

10 10. That Haas be awarded such other and further relief as the Court may
11 deem equitable.

12 DATED: January 17, 2014

BUCHALTER NEMER
A Professional Corporation

13
14 By: 

15 _____
16 GEORGE J. STEPHAN
17 FARAH P. BHATTI
18 JASON E. GOLDSTEIN
19 Attorneys for Plaintiff
20 HAAS AUTOMATION, INC.
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DEMAND FOR TRIAL BY JURY

Haas hereby demands a trial by jury as to all claims so triable.

DATED: January 17, 2014

BUCHALTER NEMER
A Professional Corporation

By: 

GEORGE J. STEPHAN
FARAH P. BHATTI
JASON E. GOLDSTEIN
Attorneys for Plaintiff
HAAS AUTOMATION, INC.